Government of
Saskatchewan

# The Criminal Injuries Compensation Act of Saskatchewan
# Fiscal Year End Report
# April 1, 1983 to March 31, 1984

## Administered by the Criminal Injuries Compensation Board for the Department of Justice

86-01683/

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# Letter of Transmittal

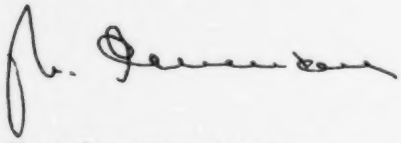
July 31, 1984

The Honourable G. Lane
Attorney General for Saskatchewan
Justice Department
Legislative Building
Regina, Saskatchewan
S4S 0B3

Honourable Sir:

I have the honour to submit the first report of the Criminal Injuries Compensation Board which covers the period of April 1, 1983 to March 31, 1984.

Respectfully yours,



Morris Cherneskey, Chairman

# Programme Description

### The Legislation

The legislation under which the Board functions is The Criminal Injuries Compensation Act, Chapter 47, which came into force on September 1, 1967.

The Board is required by the Act to find the commission of a crime (in the principal class of applications coming before it). A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the extent to which the applicant co-operated with the law enforcement authorities.

Section 12(1)(a) of the statute prescribes a one-year limitation period for filing an application for compensation, but the Board may extend the time as it considers warranted.

### Hearings

The three members of the Board, who participate on a part-time basis, usually sit on a weekly schedule. Hearings take place in Saskatoon, Regina and Prince Albert.

### Cost Sharing

Awards made under The Criminal Injuries Compensation Act are cost shared between the Federal Government and the Government of Saskatchewan. The contribution by the Federal Government amounts to 50% of the Awards or a maximum of ten cents per capita of the population of Saskatchewan, whichever is the lesser.

### Compensation of Awards

The Act provides that the Board has exclusive jurisdiction to determine whether any person is entitled to compensation as well as the amount of the award. Compensation may be awarded in the form of a lump sum payment and/or periodic award. The majority of the awards are in the form of a lump sum payment, with these awards on the average being approximately $2,750.00. There is no maximum payment that can be awarded but the minimum payment is not to be less than $50.00.

### Public Awareness

Efforts continue in an attempt to increase public awareness of the Act. The Board tries to make the provisions of the Act known in a variety of ways. Thousands of information pamphlets outlining the provisions of the Act in general terms have been distributed to hospitals, doctors, dentists, police stations, victim assistance agencies and organizations, sexual assault centres, ambulance drivers, band councils, and rural municipalities.

Radio and television interviews are conducted throughout the year along with seminars through the Public Legal Education Association. A selection of typical Board orders are provided to the news media for publication.

# Crimes Involved on Awards Granted

| | | |
|---|---|---|
| Personal Injury Claims Received | 146 | 94% |
| Death Benefits Claims Received | 9 | 6% |
| | 155 | 100% |

| Crime | Criminal Code | No. of Awards | Percentage |
|---|---|---|---|
| Assault | 245 | 105 | 67% |
| Attempted Murder | 222 | 13 | 8% |
| Robbery | 302 | 8 | 5% |
| Murder | 218 | 7 | 4% |
| Rape | 144 | 6 | 4% |
| Bodily Harm with Intent | 228 | 3 | 2% |
| Robbery with Violence | 303 | 3 | 2% |
| Assault with Intent | 246 | 2 | 1% |
| Overcoming Resistance | 230 | 2 | 1% |
| Dangerous Driving | 233 | 2 | 1% |
| Indecent Assault | 149 | 1 | 1% |
| Death by Criminal Negligence | 203 | 1 | 1% |
| Manslaughter | 219 | 1 | 1% |
| Impaired Driving | 234 | 1 | 1% |
| Kidnapping | 247 | 1 | 1% |
| | | 155 | 100% |

**Charges were laid against the offenders in 121 or 78.57% of the awards.**

# Statistical Summaries

| | |
|---|---|
| Applications received | 136 |
| Applications denied | 14 |
| Decisions completed and awards granted (includes second hearings and re-applications) | 155 |

| | | | | |
|---|---|---|---|---|
| Lump Sum Payments | Number | 148 | Amount | $407,400.03 |
| Periodic Awards | Number | 6 | | |
| (may include ongoing payments on claims adjudicated in prior years) | | | | 53,779.87 |
| **Total Amount Paid Out** | | | | $461,179.90 |

Average Award (does not include periodic payments) $ 2,734.23

**Ages of Victims (based on awards granted)**

| Age | Number of Victims | Percentage |
|---|---|---|
| 1-10 | 0 | —% |
| 11-20 | 41 | 27% |
| 21-30 | 57 | 36% |
| 31-40 | 29 | 19% |
| 41-50 | 16 | 10% |
| 51-60 | 6 | 3% |
| 61-70 | 4 | 3% |
| 71-80 | 1 | 1% |
| 80 over | 1 | 1% |
| | 155 | 100% |
| Oldest Victim — 87 years | | |
| Youngest Victim — 14 years | | |
| Male Victims | 111 | 71% |
| Female Victims | 44 | 29% |
| | 155 | 100% |

**Applications by Area**

| | | | |
|---|---|---|---|
| Battleford | 1 | North Battleford | 4 |
| Buffalo Narrows | 1 | Nut Lake Reserve | 1 |
| Calder | 2 | Patuanak | 1 |
| Cochin | 1 | Pelican Narrows | 1 |
| Colonsay | 1 | Perdue | 1 |
| Cumberland house | 1 | Pierceland | 1 |
| Dalmeny | 1 | Pilot Butte | 1 |
| Fishing Lake Reserve | 1 | Prince Albert | 5 |
| Flaxcombe | 1 | Regina | 54 |
| Fort Qu'Appelle | 1 | Rouleau | 1 |
| Green Lake | 1 | Saskatoon | 53 |
| Hudson Bay | 1 | Shaunavon | 1 |
| La Ronge | 1 | Sturgis | 1 |
| Lloydminster | 1 | Thunderchild Reserve | 2 |
| Maple Creek | 1 | Tisdale | 1 |
| Martinsville | 1 | Turnor Lake | 1 |
| Meadow Lake | 1 | Wynyard | 1 |
| Moose Jaw | 5 | Yorkton | 2 |

# Decisions on Claims

Following are four examples of actual awards made on claims.

**Illustration No. 1**

At the time of the incident the applicant was 27 years old, and resided in Regina, Saskatchewan.

On August 23, 1980, at approximately 4:00 a.m., the applicant was sleeping in his bed when five people broke into his residence and proceeded to rob him. When the applicant tried to get up, he was knocked unconscious with the butt end of a rifle.

When the applicant regained consciousness, he was taken to the hospital, where it was determined that he suffered from the following injuries:

- fracture of the nasal bone
- multiple lacerations of the face and forehead
- small chip fracture of the anterior vertebra of C6
- cerebral concussion
- contusion of the chest

The applicant's lacerations were sutured. He was hospitalized for one week. The applicant recovered from his injuries in approximately six weeks, but now complains of occasional dizzy spells.

"Mr. X." was convicted of robbery contrary to Section 302 of the Criminal Code of Canada, and was sentenced to 6 months imprisonment. "Ms. Y." was convicted of break and enter and was sentenced to 30 days incarceration. Charges against the other three individuals were stayed in Court.

This application is for pain and suffering, net lost income and miscellaneous expenses incurred.

The Board finds that the applicant was a victim of a crime within the meaning of the Act, and therefore makes the following Award:

**To:** The Applicant

| | |
|---|---|
| For pain and suffering | $1,500.00 |
| For income loss | 30.00 |
| For ambulance | 10.00 |
| For damaged clothing | 40.00 |
| For miscellaneous expenses | 10.00 |
| **Total Award** | $1,590.00 |

**Illustration No. 2**

This application is made by "A.X." and "B.X." who were sister and brother to "C.X."

This application is made with respect to the death of "C.X." and "D.X." who were shot to death on January 1, 1982 near Patuanak, Saskatchewan.

The deceaseds had three children at the time of their death ages 7, 6 and 2 years. The daughter is now being cared for by "A.X." at Patuanak, and the two sons are presently being cared for by "B.X." and his wife in Beauval, Saskatchewan.

"J.B." was convicted of murder, contrary to Section 218 of the Criminal Code of Canada and was sentenced to life imprisonment.

This application is for furneral expenses, pecuniary loss of support incurred by the children, pecuniary loss with respect to maintenance of the children and miscellaneous expenses incurred to December 31, 1982. The applicants may re-apply to the Board at the end of this period in light of their circumstances at that time.

The Board finds that the applicants' brother and his wife were victims of a crime within the meaning of the Act, and makes the following Award:

**To:** "B.X."

| | |
|---|---|
| For funeral expenses less benefits received | $ 1,756.22 |
| For pecuniary loss with respect to maintenance of the two children to be paid in monthly installments of $300.00 for a period of 1 year commencing January 1, 1983 or until care of the children is terminated | 3,600.00 |
| For pecuniary loss with respect to maintenance of the two children for the period of January 1, 1982 to December 31, 1982 | 3,600.00 |
| For travelling expenses to attend hearing | 217.46 |

**To:** "A.X."

| | |
|---|---|
| For pecuniary loss with respect to maintenance of the child to be paid in monthly installments of $150.00 for a period of 1 year commencing January 1, 1983 or until care of the child is terminated | 1,800.00 |
| For pecuniary loss with respect to maintenance of the child for the period of January 1, 1982 to December 31, 1982 | 1,800.00 |
| For travelling and miscellaneous expenses incurred to attend the hearing | 322.66 |

**To:** Each of the surviving children

| | |
|---|---|
| For loss of parental support, to be held in trust by the Official Guardian's Office until s/he reaches the age of majority, the amount of $2,500.00 each | $ 7,500.00 |
| **Total Award** | $20,596.34 |

**Illustration No. 3**

This application is made by "E.M." and "G.M." with respect to the death of their son, "R.E.", who was stabbed on September 16, 1983 in Saskatoon and died later that day.

The applicant was apparently attending a party in Saskatoon, when an argument erupted and the applicant was stabbed by another male.

This application is for net lost income, funeral and related expenses.

"T.D." has been charged with murder, contrary to Section 218 of the Criminal Code of Canada. This matter is presently before the Courts.

The Board finds that the applicants' son was a victim of a crime within the meaning of the Act, and makes the following Award:

**To:** "E.M." and "G.M."

| | |
|---|---|
| For funeral and related expenses | $1,803.05 |
| For ambulance | 50.00 |
| For net lost income incurred by applicant to attend funeral and hearing | 291.00 |
| For miscellaneous expenses incurred | 8.00 |
| **Total Award** | $2,152.05 |

**Illustration No. 4**

This award is supplementary to Award Nos. 132/71, 634/80, 664/80, 770/81 and 853/82 in which the applicant received compensation for pain and suffering, net lost income and miscellaneous expenses incurred as the result of an injury he sustained in a shooting incident on June 23, 1969 near Wynyard, Saskatchewan.

As a result of the injuries incurred, the applicant is unable to read, write or carry on a lengthy conversation. He continues to be incapacitated to an extent that he is unable to be gainfully employed.

It is apparent that the applicant continues to suffer a pecuniary loss as a result of his injury. He is presently receiving the following monthly pensions:

$264.71 CPR
$317.20 Canada Pension
$150.00 Union Pension

The Board finds that the applicant was a victim of a crime within the meaning of the Act, namely bodily harm with intent, contrary to Section 228 of the Criminal Code of Canada, and makes the following Award:

**To:** "E.S."

| | |
|---|---|
| For continued pain and suffering | $ 2,000.00 |
| For travelling expenses incurred | 71.40 |
| For pecuniary loss in the sum of $9,600.00 to be paid in monthly installments of $800.00 for a period of 1 year commencing September 1, 1983 | 9,600.00 |
| **Total Award** | $11,671.40 |

This Award may be increased or reduced during that period should circumstances warrant a change. The applicant may re-apply at the end of this period in light of his circumstances at that time.

# Examples of Allowed Claims

**967** The applicant, a 26 year old housewife, was severely beaten by her former husband. She suffered a fractured dislocation of the cervical spine at C 5-6 level with partial quadriplegia, claw deformity of her left hand, contusions and headaches. The offender was convicted and received a suspended sentence with 2 years probation. Award $8,382.88 (including pain and suffering $8,000.00).

**973** The applicant, an 18 year old male, was severely injured in an automobile accident. He sustained fractures to his right tibia and fibula, left pelvis and acetabulum, transverse process of his L4 vertebra, stellate fracture of his left ilium and nerve palsy in his lower right leg. The offender was convicted of pointing a firearm, robbery, and theft of a firearm, and was fined $500.00 and 1 month imprisonment. Award $23,248.76 (including pain and suffering $6,500.00).

**975** The applicant, a 21 year old male, was walking through a street subway when he was stabbed by a stranger. He suffered a superficial stab wound to his left abdominal wall. The offender was not apprehended. Award $927.50 (including pain and suffering $600.00).

**977** The applicant, an 18 year old male, stopped on the street to talk to some friends, when a man struck him across the face with a beer bottle. He suffered multiple lacerations to his face and temple and right side of his neck. The offender was charged with assault. Award $2,090.00 (including pain and suffering $1,750.00).

**978** The applicant, a 21 year old clerk, was raped when she went into the stockroom to get supplies. She suffered two abrasions to her abdomen and anxiety and trauma. The offender was convicted of rape and received a suspended sentence with 2 years probation. Award $3,026.55 (including pain and suffering $2,900.00).

**979** The applicant, a 21 year old summer constable, was shot while responding to a break and enter call. He suffered a bullet wound to his upper right arm. The offender was charged with attempted murder. Award $2,650.00 (including pain and suffering $2,600.00).

**980** The applicant, a 23 year old bouncer, was assaulted while attempting to remove one of the patrons. He suffered bruises and lacerations to his face and chipped an inscisor. The offender was convicted of assault and granted a conditional discharge with 12 months probation. Award pain and suffering $750.00.

**985** The applicant, a 44 year old male, was entering his vehicle when he was assaulted by one or two assailants armed with a baseball bat. He suffered laceration to his lip and severe bruising to his gums. The offenders were not apprehended. Award $970.00 (including pain and suffering $750.00).

**989** This application was made on behalf of a 14 year old male who was shot while riding his bicycle. He suffered a gunshot wound to his left forearm. The applicant complained of numbness in his hand and required minor surgery to remove the pellets. The offender was not apprehended. Award $1,544.20 (including pain and suffering $1,200.00).

**992** The applicant, a 17 year old female, was attending a party when she was struck across the face with a beer bottle. She suffered lacerations to her lips, bruises to her mouth and two fractured teeth. The offender was convicted of assault and fined $100.00. Award $2,099.70 (including pain and suffering $800.00).

**993** The applicant, a 21 year old male, was assaulted in a washroom. He suffered a swollen lip, bruises to his eyes and tender ribs and swollen testicles. The offender was convicted of assault and sentenced to 21 days incarceration. Award $838.08 (including pain and suffering $800.00).

**1000** The applicant, a 27 year old male, observed two teenagers who were being assaulted by several males. When the applicant tried to intervene, he was assaulted. He suffered a fractured left maxilla, an undisplaced fracture of the zygomatic arch and multiple bruises. The offenders were not apprehended. Award $2,301.11 (including pain and suffering $1,750.00).

**1002** The applicant, a 21 year old female, was waiting for a bus when a man grabbed her and dragged her into the alley, where she was assaulted. She suffered bruises on the left side of her neck and hyperextension of the cervical spine. The offender was not apprehended. Award $1,125.49 (including pain and suffering $900.00).

**1007** The applicant, a 17 year old female hotel desk clerk, was stabbed by a youth. She suffered stab wounds to her left shoulder, abdomen, and right knee. The offender was convicted of assault and was made a ward of the court. Award $4,092.00 (including pain and suffering $4,000.00).

**1011** The applicant, a 27 year old male, awoke and found a man in his bedroom who stabbed him. He suffered a laceration to the palm of his left hand with a severed ulnar artery and digital nerve. The offender was not apprehended. Award $2,196.25 (including pain and suffering $1,750.00).

**1016** The applicant, a 17 year old male, was walking through a housing complex that was under construction, when he was taken hostage for approximately 21 hours. During that time he was shot in the right hand and his life was threatened. His middle finger on his right hand was partially amputated by a bullet and he had a laceration on one of his fingers. The offender was killed by the police. Award $4,774.00 (including pain and suffering $4,100.00).

**1021** The applicant, a 63 year old male taxi driver was forced into the trunk of his car by a passenger. He was rescued approximately 3½ hours later. He suffered from emotional stress, anxiety, hypothermia, and a laceration to his right hand. The offender was convicted of robbery, carrying an offensive weapon, and unlawful confinement and was sentenced to 3 years imprisonment. Award $2,550.00 (including pain and suffering $2,500.00).

**1022** The applicant, a 22 year old male, was assaulted by a youth who was under his care at a juvenile home. He suffered a laceration on his upper lip, damaged teeth and a bruised gingiva. The offender was convicted of assault. Award $1,232.50 (including pain and suffering $1,200.00).

**1023** The applicant, a 16 year old female, was raped in an apartment. She suffered lower quadrant abdominal pain, anxiety and trauma and nightmares and insomnia. The offender was convicted of rape and sentenced to 3 years imprisonment. Award $3,672.50 (including pain and suffering $3,500.00).

**1027** The applicant, a 21 year old female, was raped in her apartment. She suffered a lacerated and swollen lip, multiple bruises, and contusions, headaches, and anxiety and trauma. The offender was convicted of rape and sentenced to 2 years less 1 day imprisonment. Award $4,825.50 (including pain and suffering $4,500.00).

**1035** The applicant, a 68 year old female was walking down a street when two men grabbed her purse and ran. She suffered a fracture of the left humerus, fracture of the pubic ramus, and undisplaced central fracture of the acetabulum and tenderness over the left groin. The offenders were not apprehended. Award $2,586.00 (including pain and suffering $2,500.00).

**1041** The applicant, a 23 year old female, was raped in her friend's apartment. She suffered from insomia, weight gain, and absence of menstruation. The offender is charged with rape. Award $4,628.32 (including pain and suffering $4,000.00).

**1045** The applicant, a 23 year old male, was leaving a bar when he was assaulted. He suffered a depressed fracture of the right maxilla, a bilateral fracture of the mandible, and a laceration to his eyelid. He is left with a malocclusion. The offender is charged with assault. Award $2,853.00 (including pain and suffering $2,600.00).

**1048** The applicant, a 50 year old male, was assaulted while on duty as a police officer. He suffered from a laceration below his left eye and black eyes. The offender was convicted of assault and sentenced to 45 days incarceration and ordered to make restitution of the applicant's glasses. Award $354.50 (including pain and suffering $350.00).

**1054** The applicant, a 28 year old female, was beaten by her common-law husband. She sustained two superficial lacerations to the left eyebrow and nose, multiple abrasions and contusions, two fractured ribs, pain in the right costovertebral joints, and several fractured teeth. The offender has been charged and the matter is presently before the courts. Award $4,418.86 (including pain and suffering $1,500.00).

**1060** The applicant, a 22 year old male, was assaulted when a dispute arose between the applicant and two other males. The applicant was knocked unconscious and sustained a concussion with amnesia for the event, fractured nose and multiple contusions, diplopia on upward gaze, secondary to swelling to right eye, 3 mm laceration on inside of lip and swollen upper lip. Both offenders were charged with assault. Award $1,773.34 (including pain and suffering $1,400.00).

**1066** The applicant, a 22 year old female, was driven out of the city after leaving a local night club with a male. She was raped, her life threatened, and the offender tried to strangle her on several occasions. The applicant suffered severe anxiety and trauma, depression and loss of self-confidence, abrasion to the right shoulder. The offender was convicted of rape and this was one of several which resulted in the offender being sentenced to an indeterminate period as a dangerous sex offender. Award $4,656.51 (including pain and suffering $4,500.00).

**1068** The applicant, a 22 year old male, was assaulted in his home by two males. The applicant sustained a dislocation of his left shoulder, bruises and contusions to facial area. The offenders were charged with assault and other related charges. These matters are still pending before the courts. Award $2,262.81 (including pain and suffering $1,200.00).

**1070** The applicant, a 25 year old male, and his companion were approached by a man who asked them if they wanted to buy some "smoke". When they declined he pulled a knife and stabbed the applicant. He suffered a 2 inch stab wound to the anterior right chest wall, superficial scratch to the palm. The offender was convicted of assault. Award $1,152.50 (including pain and suffering $900.00).

**1075** The applicant, a 17 year old male, was sitting on a friend's car in a parking lot when a man approached and assaulted him. This assault was apparently unprovoked. The applicant suffered a displaced fracture of the nasal pyramid and nasal septum, bruises and lacerations, and a fractured finger. The offender was convicted of assault and sentenced to 8 months incarceration. Award $1,201.80 (including pain and suffering $1,000.00).

**1080** The applicant, a 45 year old male, was assaulted and robbed in his hotel room. The applicant suffered from a hematoma under his left eye, multiple abrasions and lacerations, fractures through both zygoma and both lateral walls of the maxillary antra, and a fractured nasal bone. The three offenders were convicted of robbery with violence and were sentenced to 18 months, 6 months, and 18 months incarceration. Award $2,770.00 (including pain and suffering $2,500.00).

**1088** The applicant, a 20 year old male, was assaulted during the robbery of his restaurant. He sustained a headache and vomitting, bruise over the forehead, concussion with amnesia with respect to the circumstances that occurred directly after the assault. The offenders were convicted and sentenced to 4 years and 2 years incarceration. Award $1,738.74 (including pain and suffering $1,500.00).

**1094** The applicant, a 34 year old male, was assaulted by a woman and two men who entered his apartment. The beating continued for several hours and his life was threatened. They decided that they would take the applicant to his bank the next day to have him withdraw some money for them. The applicant did so, borrowing $1,000.00 on his credit card. The offenders were charged with robbery, extortion, and unlawful confinement. Award $2,910.40 (including pain and suffering $2,500.00).

**1100** The applicant, a 15 year old female, went to a party with her female companion and two male strangers. They were leaving the party, when the two males offered to drive them home. The applicant and her friend were then driven out of the city and the applicant was allegedly raped. She suffered a tender right arm. Although the charge of rape was dismissed by the courts, the Board is satisfied that she was assaulted and entitled to compensation. Award $3,006.70 (including pain and suffering $2,750.00).

**1107** The applicant, a 62 year old male, made an application for death benefits with respect to the death of his son who was fatally shot while in his trailer in Maple Creek. The offender was convicted of murder and sentenced to life imprisonment. Award $4,207.65.

**1116** The applicant, a 37 year old female, was walking to her bus stop when three males assaulted her. She was hit over the head with a baseball bat and her purse was stolen. She suffered a laceration to the left temple, bruises to her cheek and shoulder. The offenders could not be identified, and therefore no charges have been laid. Award $1,191.60 (including pain and suffering $950.00).

**1117** The applicant, a 22 year old male, was drinking in a hotel in Regina. While he was playing pool, a group of men took his table and drink. When the applicant tried to retrieve his coat, he was assaulted and struck with a pool cue. He suffered multiple abrasions and bruises to the head, and a chipped bone in his right middle phalanx of his right ring finger. The offenders could not be identified, and therefore no charges have been laid. Award $773.60 (including pain and suffering $750.00).

**1119** The applicant, an 87 year old female, was awakened by a man who attempted to rape her. When she resisted he proceeded to choke her. She was able to crawl out of the room and ran to a neighbour's house for assistance. The applicant suffered five fractured ribs, multiple bruises and contusions to neck, chest, cervical spine, and facial area, also severe emotional trauma. The offender was convicted of assault. Award $3,053.90 (including pain and suffering $2,750.00).

**1122** The applicant, a 38 year old male, was in a hotel washroom when he was attacked by two men and was stabbed in his left chest. He suffered an 8 cm stab wound, lacerations to his left forearm, hand and finger, which partially divided the adductor muscle of his thumb, and a laceration to the posterior right chest. The offenders were charged with attempted murder and are presently before the courts. Award $4,283.10 (including pain and suffering $2,250.00).

**1125** The applicant, a 15 year female, was sexually assaulted by her employer on July 4, and December 9, 1982. The applicant did not report these incidents to the police until December 13, 1982 as she was afraid of the offender and felt intimidated by his mannerisms. The applicant suffered depression and other psychological problems. She voluntarily admitted herself to a psychiatric centre where she underwent treatment. The offender was charged with rape, but was killed in an unrelated incident after the preliminary hearing. Award $2,951.90 (including pain and suffering $2,750.00).

**1132** The applicant, a 28 year old female, was arguing over travelling to a funeral when her husband became violent and assaulted her. The applicant contacted a neighbour who took her and her daughter to his residence and then she contacted the police. The applicant suffered a 1.5 cm laceration to her lower inside lip, abrasions to lower lip, tender scalp, right back and rib area, loose upper central incisor and extensive damage to her teeth. The offender was convicted of assault. Award $4,342.76 (including pain and suffering $1,750.00).

**1134** The applicant, a 49 year old male, was approached by a female acquaintance and her companion who requested money from the applicant. When the applicant refused to give them the money, he was robbed and stabbed. The applicant suffered a 1 inch stab wound to the left chest. The offenders are charged with attempted murder and this matter is presently before the courts. Award $4,022.00 (including pain and suffering $750.00).

**1138** The applicant, a 31 year old female, was sunbathing outside her apartment and when she went back into the building a man attempted to pull her top off. In the struggle that ensued the applicant injured her hand and was treated for abrasions on the knuckles of the 4th and 5th fingers of her right hand. The offender is charged with assault and this matter is presently before the courts. Award $658.00 (including pain and suffering $600.00).

# Examples of Disallowed or Reduced Claims

**Illustration No. 1**

At the time of incident, the applicants were 31, 31, 29, and 27 years old.

Information before the Board indicates that on August 18, 1983, the applicants were drinking in a licensed beverage room when an argument erupted between this group and another group of three men. A fight ensued and the bartender requested that the group of three men leave the beverage room or continue the matter outside the premises. The three men left the bar indicating they would like to finish the matter outside. The applicants followed this group outside and the fight continued. As a result of the altercation, the applicants sustained a variety of stab wounds.

This incident was reported to the police authorities, but because the offenders were not apprehended, no charges have been laid.

The Board first heard these applications for compensation on December 8, 1983, in the presence of their counsel. Although the applicants described the events that transpired on the evening in question in some detail, the Board was left with a great deal of uncertainty as to what actually occurred and what part the applicants themselves played in the fracas that resulted in injury to themselves. It appeared that the injuries they sustained were not entirely unprovoked and in fact, the information provided to the Board was capable of several interpretations. To resolve this uncertainty, as to what actually transpired, the Board adjourned the hearing and re-scheduled a further hearing on January 23, 1984 to which the bartender of the hotel in question was subpoenaed to testify. The applicants' lawyer was also invited to attend and cross-examine the bartender. This additional hearing contributed to a greater understanding of the events that transpired on that evening and assisted the Board in arriving at its determination.

The Board finds that the applicants were not innocent victims of a crime as contemplated by the Criminal Injuries Compensation Act, but that they were willing participants in a common brawl which they themselves to a certain degree initiated. The position this Board adopts is supported to a large degree by the information obtained from the police. For the reasons set out above, the Board directs that the applicants' request for compensation be denied, but that counsel fees in the amount of $150.00 to be paid to the applicants' solicitor, and that witness fees in the amount of $20.00 to be paid to the bartender.

**Illustration No. 2**

At the time of the incident, the male applicant was 22 years old.

On October 3, 1982 at approximately 3:30 a.m., the applicant was attending a party, when he was assaulted in the washroom. This assault was apparently unprovoked.

The applicant was seen by a physician, who indicated that the applicant suffered from the following injuries:

- depressed fracture of the nasal bone
- bruises
- laceration to bridge of the nose

A closed reduction of the nasal fracture was done on October 8, 1982. The applicant was hospitalized overnight and recovered over a period of approximately 2 weeks. The applicant is left with a residual scar on his nose.

This incident was reported to the police authorities, but the applicant refused to press charges for fear of retaliation by the offender.

The Board finds that the applicant was a victim of a crime within the meaning of the Act, namely Assault, contrary to Section 245 of the Criminal Code of Canada, but finds further that the applicant should be deducted 20% for failure to co-operate with the law enforcement authorities. The Board hereby makes the following Award:

| | |
|---|---|
| **To:** The Applicant | |
| For pain and suffering | $1,000.00 |
| For damaged clothing | 67.00 |
| | $1,067.00 |
| Less 20% | 213.40 |
| | $ 853.60 |
| **To:** The Witness | $ 15.00 |
| | $ 15.00 |
| **To:** The Witness | $ 15.00 |
| | $ 15.00 |
| **Total Award** | $ 883.60 |

**954** The applicant, a 50 year old crane operator, was beaten while in the back of his motorhome. He suffered from loss of balance, multiple abrasions, fractured teeth, and thoractic and lumbar subluxations with acute muscle spasms. Because of his loss of balance, he is unable to continue as a crane operator. The offender was convicted of kidnapping and assault and was sentenced to one year imprisonment. This Award was deducted 25% for the applicant's contribution. Award $19,000.72 (including pain and suffering $6,500.00).

**972** The applicant, a 31 year old female, was beaten while in a licensed beverage room. She sustained multiple scratches and abrasions to her face, bruises to her arm and knee, and bite marks to her right arm. The offender died before this matter came to court. This award was deducted 20% for failure to co-operate with police authorities. Award $844.70 (including pain and suffering $720.00).

**982** The applicant, a 45 year old male, made an application to the Board for death benefits with respect to the death of his son who was shot in a hostage taking incident. It was later determined that the applicant's son was the perpetrator in this incident and therefore this application was denied.

**1005** The applicant, a 19 year old male, was walking down a street when two males passed him making obscene gestures. The applicant returned the signals and was assaulted. He suffered a bilateral fracture of the mandible and swelling over the jaw area. The offender was convicted of assault and fined $350.00 with 6 months probation. This award was deducted 30% because the applicant exercised poor judgment with respect to his behaviour prior to his injury. Award $1,531.78 (including pain and suffering $1,500.00).

**1013** This application was made on behalf of a 31 year old male who was severely beaten by his ex-wife's common law husband. He suffered a large right subdural hematoma, cerebral contusions and edema, and a spastic left hemiplegia. It was determined that the applicant unlawfully entered his ex-wife's house and proceeded to fight her common-law husband. The Board determined that the applicant contributed to his own misfortune and denied this application.

**1024** The applicant, a 23 year old male, observed 3 males assaulting another male on a bicycle. When it was over, the applicant approached another group of men and inquired about the incident and was struck over the head with a baseball bat and knocked unconscious. He suffered a fracture of the frontal bone, fracture of the frontal sinus, depressed fracture of the right zygoma, laceration to his forehead and ear, fractured teeth, multiple bruises, and a slight ptosis of his upper eyelid. The offenders were charged with wounding with intent. This award was deducted 15% because the applicant exercised poor judgment with respect to his behaviour prior to his injury and therefore put himself into circumstances that alternately caused his injuries. Award $6,100.85 (including pain and suffering $6,500.00).

**1029** The applicant, a 46 year old female, made an application for funeral and related expenses with respect to the death of her brother, who was killed. As a result of the incident a man was charged with murder, but was later acquitted of this charge as it was determined he acted in self-defence. The Board found that the applicant's brother was not an innocent victim of a crime but rather contributed to his own death and therefore denied this application.

**1030** The applicant, a 57 year old male, was hunting from a canoe, when he was mistaken for a moose and shot by another hunter. He suffered a comminuted intercondylar fracture of the knee, with fragments of the bullet scattered around the area. He is left with a grossly destroyed knee joint with only 15° - 30° motion. The offender was convicted of using a firearm in a careless manner. The Board finds that the applicant was not a victim of a crime contemplated by the Act and therefore denies this application.

**1065** The applicant, a 24 year old male, was in an argument with a man in a licensed beverage room. The man chased him out of the hotel and stabbed the applicant. He suffered a stab wound to the lower left rib area, small perforation of the splenic flexure of the colon. The offender was charged with attempted murder, but because the only witness to the incident failed to appear in court, a Stay of Proceedings was entered. This award was deducted by 40% because the applicant was quite intoxicated at the time of the incident and the Board feels that his behaviour in part contributed to his own misfortune. Award $4,225.88 (including pain and suffering $1,750.00).

**1082** The applicant, a 55 year old male, made application with respect to the death of his son, M.C., who was killed in a three-vehicle accident on May 28, 1980. The Board denies this application as the award of this Board would not exceed those already recovered by the applicant from other sources.

**1084** The applicant, a 49 year old male, was drinking in a licensed beverage room with a female companion. When they left the hotel the female asked if he had any money, he indicated that he did not and the female stabbed his left hand with a sharp object. The applicant suffered from four divided extensor tendons of the left wrist. The offender has been charged with assault, but failed to appear. This award is deducted 40% as the applicant did not follow the medical advice given him, he was intoxicated at the time of the incident, and he did not fully co-operate with the police authorities. Award $1,050.00 (including pain and suffering $1,750.00).

**1092** The applicant, a 44 year old male, was assaulted at the bus depot by his sister's common-law husband. The applicant suffered a right zygomatic and lateral orbital rim fracture. The matter was not properly reported to the law enforcement authorities within a reasonable time, and there is some doubt whether an offence was committed. This application was therefore denied.

**1096** The applicant, a 35 year old female, was drinking in a licensed beverage room when she was assaulted in the washroom. When she left the establishment she was further assaulted. She suffered from a ruptured right globe. The offenders were charged, but the matter is still before the courts. This award is deducted 25% because the applicant was very intoxicated when the injury occurred and because she failed to seek immediate medical attention. Award $3,368.25 (including pain and suffering $4,000.00).

**1112** The applicant, a 28 year old male, was leaving a party, when he was attacked by a male and severely beaten. The applicant was then driven out of the city by the offender and dumped in a ditch. A passing motorist contacted the police authorities. The offender has been charged with attempted murder, but this matter is still before the courts. The applicant suffered a blowout fracture of the right orbit, slightly depressed zygoma, fractured ribs, multiple bruises and contusions, muscle strain, and diplopia. This award was deducted 20% as the applicant was intoxicated at the time of the injury and therefore put himself under hazardous circumstances. Award $2,201.31 (including pain and suffering $2,500.00).